



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION II

EDISON, NEW JERSEY 08837

DATE: APR 15 2005

SUBJECT: Confirmation of Verbal Authorization and Request for a Ceiling Increase for a CERCLA Removal Action at the Westwood Chemical Corporation Site, City of Middletown, Town of Wallkill, Orange County, New York 10941 – **ACTION MEMORANDUM**

FROM: Dilshad J. Perera, On-Scene Coordinator
Response and Prevention Branch

TO: William McCabe, Acting Director
Emergency and Remedial Response Division

THRU: Bruce Sprague, Chief
Response and Prevention Branch

Site ID No.: WN

I. **PURPOSE**

The purpose of this Action Memorandum is to document the verbal authorization of \$250,000 granted on March 2, 2005 by William McCabe, Acting Director, Emergency and Remedial Response Division ("ERRD") and to request a ceiling increase of \$1,700,000 (bringing the Total Project Ceiling to \$1,950,000) with which to continue a time-critical removal action to dispose of hazardous substances present at the Westwood Chemical Corporation Site ("Site") located at 146 Tower Drive, City of Middletown, Town of Wallkill, Orange County, New York 10941 (this Action Memorandum uses 146 Tower Drive which appears to be the official post office address although Westwood Chemical Corporation had regularly used 46 Tower Drive as its address).

On February 10, 2005, New York State Department of Environmental Conservation ("NYSDEC") responded to the Site as a result of a notification of abandoned chemicals at the Site by the Town of Wallkill Code Enforcement Officer. Operations at the Site had been discontinued in October 2004 due to financial problems of the Site owner and operator, Westwood Chemical Corp., and numerous chemicals had been abandoned at the Site as a result of the shutdown of operations. NYSDEC provided for Site security, arranged for the temporary restoration of power to the Site, began moving containers of

corrosives from an outdoor staging area to the warehouse portion of the building situated on the Site, and removed certain potentially shock sensitive materials from the Site. On February 22, 2005, NYSDEC requested that the U.S. Environmental Protection Agency ("EPA") conduct a time-critical removal action under the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA"), 42 U.S.C. §§9601 et seq.

Pursuant to verbal authorization in the amount of \$250,000 from the Acting Director, ERRD given on March 2, 2005, EPA commenced Site security as of March 3, 2005 and, on March 8, 2005, EPA mobilized to the Site and commenced Site stabilization and cleanup activities.

This Action Memorandum seeks funding for continued Site security and stabilization, for analysis of materials at the Site, and for transport and disposal of hazardous substances identified through such analysis. This Site is not on the National Priorities List ("NPL"), and there are no nationally significant or precedent-setting issues associated with this Site.

II. SITE CONDITIONS AND BACKGROUND

A. Site Description

1. Removal Site Evaluation

The Site is owned and was operated by Westwood Chemical Corporation ("Westwood"), a New York corporation organized in 1973 under the original name of Comet Chemical Corp.

Westwood manufactured two primary product lines at the Site: ingredients used in the cosmetic and toiletry industry and flocculent agents used by municipal water supplies.

The ingredients manufactured for the cosmetic and toiletry industry are an aluminum-zirconium chloride complex and aluminum chlorohydrate, both in liquid and powdered form. These compounds are hygroscopic and evolve hydrogen chloride when in contact with moisture. Aluminum chlorohydrate was manufactured by adding hydrochloric acid to aluminum ingots in a series of reactor vessels.

The flocculent agents manufactured at this Site also made use of aluminum chlorohydrate. The aluminum chlorohydrate was reacted with sulfuric acid, hydrochloric acid and carbonate salts of magnesium, calcium and sodium to form polyaluminum hydroxychlorosulfate.

These two processes generated approximately 8,000 gallons of waste water per day at their peak. After Westwood was notified by the local publicly owned treatment works ("POTW") that their discharge exceeded some of the discharge permit parameters

(aluminum, copper, pH, solids and nitrogen), Westwood ceased discharging to the sewer and began shipping the wastewater off-Site.

During the height of the manufacturing operations, Westwood employed more than one hundred people at the Site and operated two shifts over each 24-hour period. In or around late 2000 or early 2001, Westwood started to encounter financial difficulties.

Later, as a cost saving measure after Westwood began to encounter financial difficulties, wastewater was stored on Site in totes, unused storage tanks and secondary containment. At that time, according to two past employees interviewed by EPA, the utility company often cut off service to the Westwood facility on account of nonpayment of utility bills, and in addition, many of Westwood's vendors supplied raw materials only on a cash-on-delivery basis also on account of unpaid bills.

There are approximately 70 large storage tanks, 400 totes, 2,000 lab-pack size containers and 3,500 tons of solid material (primarily off-spec and finished hygroscopic substances) present on the Site.

Portions of the southern boundary of the Site along Tower Road, as well as the entire eastern boundary of the Site abutting an unnamed tributary of the Wallkill River are unfenced. Although the remainder of the Site is fenced, the unfenced portions would, in the absence of Site security, afford easy and unrestricted access to the Site and to the chemicals stored outside of the building.

Two known releases occurred at the Site during the period when Westwood was conducting business operations. In the mid 1980s, an explosion occurred in one of the reactor vessels for production of aluminum chlorohydrate. In 1989, a hydrochloric acid delivery over-filled the on-Site storage tank and the acid impacted the surrounding soil. In connection with the hydrochloric acid spill, NYSDEC directed Westwood to install three monitoring wells and to pay for the cost of monitoring by NYSDEC personnel.

On October 25, 2004, due to its financial difficulties, Westwood ceased operations and abandoned the facility. Westwood was put into bankruptcy by an involuntary petition filed by creditors on January 28, 2005 which was superseded by a voluntary petition under chapter 7 of the bankruptcy laws filed on February 11, 2005.

On February 10, 2005, the Town of Wallkill Code Enforcement Officer conducted an inspection at the Site. Upon noting several storage tanks and numerous totes with labels indicating corrosive contents, laboratory rooms with potentially shock sensitive material and the absence of utilities servicing the building; the Code Enforcement Officer notified NYSDEC. NYSDEC Spill Response staff hired contractors to provide Site security, to restage from outdoor staging areas to the warehouse portion of the building totes having labels indicating corrosive contents, and to remove potentially shock sensitive materials from the Site. NYSDEC also arranged with the bankruptcy trustee for temporary restoration of power at the Site.

By letter dated February 22, 2005, NYSDEC requested that EPA undertake a time-critical CERCLA removal action at the Site.

On March 01, 2005, EPA On-Scene Coordinators ("OSCs") conducted a Site visit and met with a NYSDEC Spill Responder. The NYSDEC official requested that EPA assume responsibility for Site security.

On March 02, 2005, the Acting Director ERRD gave verbal authorization of a project ceiling of \$250,000 to initiate a removal action at the Site. EPA began immediately thereafter to provide Site security and, on March 8, 2005, EPA mobilized to the Site.

Due to the condition of the tanks and containers at the Site, many of which are stored outside in an uncontrolled unsecured location, a number of releases have occurred since EPA began the response action pursuant to the March 2, 2005, verbal authorization. On March 3, 2005, during a Site tour, the OSC observed that a liquid nitrogen tank was visibly and audibly venting. It was subsequently determined through the tank's vendor, that ice formation around a vent on the tank had prevented proper venting which, if it had been left unattended could have led to a catastrophic failure of the tank. Steps were taken to break the ice and vent the contents. On March 14, 2005, one of the PVC elbow joints at the bottom of a reactor vessel failed. The resulting leak was noted by Site personnel and fixed by installing a blank cap. On March 25, 2005, an interior metal tank, in apparently good condition, and containing suspected process waste water, began leaking from a metal pipe located between the gate valve and the tank and EPA responded by safely transferring the contents of that tank to a secure container. On April 1, 2005, there was a failure of secondary containment at multiple locations in the water treatment production tank farm. EPA responded by again safely transferring the contents to a secure container.

2. Physical Location

The Site is located at 146 Tower Drive, City of Middletown, Town of Wallkill, Orange County, New York 10941. Tower Drive is lined with both manufacturing facilities and commercial entities. Within 0.25 miles to the northwest of the Site, the area is characterized by mixed residential development with single family homes and apartments. Within 0.5 miles south of the Site there is a large concentration of retail stores.

The Site is located approximately 0.25 mile east of New York Route 17, a major north to south thoroughfare, and approximately 1.5 miles north of Interstate 84. A commuter rail line between New Jersey and New York is located approximately 0.5 miles to the west of the Site. Silver Lake is within 0.6 miles southwest of the Site. The Wallkill River is approximately 2 miles southeast of the Site. An unnamed tributary of the Wallkill River is immediately adjacent to the east of the Site.

Based on 1990 census data, the City of Middletown has a population of approximately 25,000, of whom approximately 75% are white, 12% African American, and 10% Native American. The per capita income is \$45,000.

3. Site Characteristics

The Site includes two adjacent tax lots with a combined land area of approximately 9 acres. Approximately one half of this acreage is developed and the remaining portion is primarily an open field with a grove of trees on the southeastern edge. The developed portion of the Site includes a series of interconnected buildings (functioning as a single building) used for the company's operations, and also includes adjacent tank farms and parking lot and driveways.

The interconnected buildings were erected in stages and comprise a single continuous structure. Most parts of the building are one-story steel-framed structures with metal siding, with the remainder being a two-story stucco structure.

The two-story stucco structure, facing Tower Drive, contains executive offices and conference rooms as well as a small basement dedicated to QA/QC sample and QA/QC report storage. Adjoining the two-story structure is a single story office building that houses three laboratories, additional offices, an employee break-room and a Research & Development room. The steel-framed structures house production facilities including bulk storage tanks and, at the rear, warehouse space. Immediately adjacent to and outside of the building are the tank farms and reactor farms.

Raw materials and final products were sampled and analyzed on-Site by Westwood. Raw materials included hydrochloric acid, sulfuric acid, zirconium basic carbonate and zirconium oxychloride. The three laboratories located in the single story office complex served for QA/QC testing, research and development and general laboratory.

The production facility is divided into two major areas. The portion closest to the office area was dedicated to processing aluminum chlorohydrate into ingredients used in antiperspirant and flocculent agents. There are numerous tanks, primarily fiberglass, and several dryer units. Along the southeastern wall of the production area are two sets of tank/reactor farms; one for forming aluminum chlorohydrate for use in antiperspirants; the second for forming aluminum chlorohydrate and polyaluminum hydroxychlorosulfate used in municipal water supply flocculent agents. The rear portion of the production building is a warehouse area.

In around the year 2000, Westwood was planning to expand its antiperspirant ingredient production and, according to information provided to EPA by former Westwood employees, Westwood had already expended an estimated \$2.5 million in purchasing stainless steel dryers, blowers and steel I-beams for this expansion. The expansion progressed only to the point of laying the foundation for a new building and in fabricating the secondary containment for an additional tank/reactor farm.

At the time of EPA's mobilization for this removal action, numerous totes and poly drums were still staged outdoors. As an initial stabilization effort, EPA, through its contractor, has restaged the totes and poly drums into the warehouse portion of the building.

4. Release or Threatened Release into the Environment of a Hazardous Substance, or Pollutant or Contaminant

The following hazardous substances have been identified by sampling analyses.

<u>Hazardous Substance</u>	<u>Statutory Source for Designation as a Hazardous Substance</u>
Hydrochloric Acid	CAA 122(r)
Sulfuric Acid	40 CFR Section 302

Though the following are not specifically listed as hazardous substances pursuant to CERCLA, they do pose a human health threat for dermal contact or inhalation since, due to their hygroscopic nature, they become acidic once the substances absorb moisture from the air or moisture in the lungs or sweat on skin.

Zirconium Basic Carbonate
Zirconium Oxychloride
Aluminum Chlorohydrate

5. NPL Status

At the present time, the Site is not on the NPL and there are no efforts underway to include the Site on the NPL.

B. Other Actions to Date

1. Previous Actions to date

NYSDEC through their contractors removed several containers of potentially shock sensitive material. NYSDEC also procured 24-hour Site security and arranged for the temporary restoration of power to the Site. NYSDEC also initiated the restaging of totes with corrosive labels from outdoor staging areas to inside the warehouse.

2. Current Actions

EPA initiated a removal action on March 3, 2005, by assuming the responsibility for the 24-hour Site security. EPA's Emergency and Remedial Response Service contractor mobilized to the Site on March 8, 2005, and responded by continuing the process, initiated by NYSDEC, of restaging the totes and also began inventorying the hazardous substances and other chemicals that had been abandoned at the Site.

C. State and Local Authorities' Roles

1. State and Local Actions to Date

There are no actions currently being undertaken by either the state or local agencies

2. Potential for Continued State/Local Response

EPA will coordinate its activities with NYSDEC and the local response community including the Town of Wallkill Code Enforcement Officer.

III. THREATS TO PUBLIC HEALTH OR WELFARE OR THE ENVIRONMENT, AND STATUTORY AND REGULATORY AUTHORITIES

The conditions at the Site meet the criteria for a CERCLA removal action as described in 40 CFR Section 300.415(b) of the National Contingency Plan ("NCP"). Factors that support conducting a removal action at the Site include:

- (i) Actual or potential exposure to nearby human populations, animals, or the food chain from hazardous substances or pollutants or contaminants;
- (ii) Actual or potential contamination of drinking water supplies or sensitive ecosystems;
- (iii) Hazardous substances or pollutants or contaminants in drums, barrels, tanks, or other bulk storage containers, that may pose a threat of release;
- (iv) Weather conditions that may cause hazardous substances or pollutants or contaminants to migrate or be released;
- (v) Threat of fire and explosion; and
- (vi) Unavailability of other appropriate federal or state response mechanism to respond to the release.

A. Threats to Public Health or Welfare

- (i) **Actual or potential exposure to nearby human populations, animals, or the food chain from hazardous substances or pollutants or contaminants.**

There are large bulk storage tanks of hydrochloric acid and sulfuric acid both inside and outside the facility. Should any of these bulk storage containers fail, nearby residents and employees of nearby businesses could potentially be exposed to acid fumes or come into direct contact with the corrosive material.

- (ii) **Actual or potential contamination of drinking water supplies or sensitive ecosystems**

There are 10 municipal wells and intakes within 2.5 miles of the Site. In the event of the release of the hazardous substances present at the Site there is the potential for contamination of drinking water supplies or sensitive ecosystems. As noted in Section

II.A.1 above in this Action Memorandum, there was a 1989 release of hydrochloric acid at the Site which impacted the soils at the undeveloped portion of the Site.

(iii) Hazardous substances or pollutants or contaminants in drums, barrels, tanks, or other bulk storage containers, that may pose a threat of release

With prolonged storage of the hazardous substances on Site, there is a potential for containers and bulk storage tanks to fail, particularly given the corrosive nature of the material manufactured at the Site as well as some of the raw materials purchased by Westwood. As noted in Section II.A.1 of this Action Memorandum, there have been several instances of container failure even over the last month.

(iv) Weather conditions that may cause hazardous substances or pollutants or contaminants to migrate or be released

Much of the process lines are constructed of Poly Vinyl Chloride ("PVC") piping. With continued exposures to weather extremes from summer to winter, there is a potential for the PVC pipes to fail. As noted in Section II.A.1 of this Action Memorandum, on March 14, 2005, one of the PVC elbow joints at the bottom of a reactor vessel failed. The resulting leak was noted by Site personnel and fixed by installing a blank cap.

(v) Threat of fire and explosion

The three laboratory rooms and basement contain incompatible hazardous substances. The basement contains acids and bases and large quantities of cardboard boxes storing QA/QC reports. Should these substances come into contact, there is a potential for an exothermic reaction and there is combustible material to sustain a fire. The laboratory rooms in addition to having acids and bases, also contain flammable solvents.

(vi) The availability of other appropriate federal or state response mechanism to respond to the release

Based on information provided by the NYSDEC, they do not have the funding or resources to conduct a removal action to mitigate the threats posed by this Site.

B. Threats to the Environment

The primary threat to the environment is from the potential corrosive material being released. The corrosive nature of the material can adversely impact the vegetative cover. In addition, because the Site slopes to the east, there is a potential for material released at the Site to drain off the Site and impact the Wallkill River either directly or through the tributary adjacent to the eastern boundary of the Site.

IV. ENDANGERMENT DETERMINATION

Actual or threatened releases of hazardous substances from the Site, if not addressed by implementing the response action selected in this Action Memorandum, may present an imminent and substantial endangerment to the public health or welfare or the environment.

V. PROPOSED ACTIONS AND ESTIMATED COSTS

A. Proposed Actions

1. Proposed Action Description

The proposed removal action would include:

- Sampling and disposal of wastewater and other materials stored in totes and bulk storage tanks.
- Consolidation of small containers followed by sampling and disposal.
- Lab-packing of small containers followed by disposal.
- Tank and process line removal and disposal.
- Cleaning of secondary containment.
- Decontaminating the production building.
- Sampling of other potentially hazardous material and disposal.

2. Contribution to Remedial Performance

The Site is not on the NPL. However, activities proposed would not be inconsistent with potential remedial actions.

3. Description of Alternative Technologies

Alternative technologies will be considered as long as the technology proves to be cost effective, timely and efficient.

4. Engineering Evaluation/Cost Analyses ("EE/CA")

Due to the time-critical nature of this Action Memorandum, an EE/CA will not be prepared.

5. Applicable and Relevant and Appropriate Requirements ("ARARs")

ARARs within the scope of this project, including RCRA regulations that pertain to the disposal of hazardous wastes, will be met to the extent practicable.

6. Project Schedule

This action has already been initiated through verbal authorization.

B. Estimated Costs (rounded to nearest \$1,000)

Extramural Costs:	Current	Proposed
Regional Allowance Costs: (Total cleanup contractor costs include labor, equipment, materials and laboratory disposal analysis)	\$ 200,000	\$1,585,000
Other Extramural Costs not Funded From the Regional Allowance: Technical support	\$ 0	\$ 40,000
Subtotal, extramural costs	\$ 200,000	\$1,625,000
Extramural Costs Contingency (20%)	\$ 0	\$ 325,000
TOTAL EXTRAMURAL COSTS	\$ 0	\$1,950,000
TOTAL REMOVAL PROJECT CEILING	\$ 200,000	\$1,950,000

VI. EXPECTED CHANGE IN THE SITUATION SHOULD ACTION BE DELAYED

Should action be delayed, hazardous substances presently located at the Site could be released and adversely impact human health and the environment. As described in Section II.A.1, above, in this Action Memorandum, there have been several releases at the Site in just the last month. EPA has been on Site and responded to each such release.

VII. OUTSTANDING POLICY ISSUES

None.

VIII. ENFORCEMENT

EPA will assess the extent to which remediation may be funded or reimbursed within Westwood's bankruptcy proceedings. In addition, EPA will seek to determine if there are any other financially viable potentially responsible parties (PRPs) who might

reimburse the cost of the cleanup. However, due to the time-critical nature of this response, this Action Memorandum recommends funding for a fund-lead response action.

The total EPA costs for this removal action based on full-cost accounting practices that will be eligible for cost recovery are estimated to be \$2,671,150.

This figure includes direct costs which include direct extramural costs and direct intramural costs. It also includes indirect costs which are calculated based on EPA's indirect cost rate expressed as a percentage of site-specific direct costs, consistent with the full cost accounting methodology effective October 2, 2000. These estimates do not include pre-judgment interest, do not take into account other enforcement costs (including Department of Justice costs), and may be adjusted during the course of a removal action. The estimates are for illustrative purposes only and their use is not intended to create any rights for responsible parties. Neither the lack of a total cost estimate nor deviation of actual total costs from this estimate will affect the United States' right to cost recovery.

Direct Extramural	\$1,950,000
Direct Intramural	\$ 100,000
Subtotal, Direct Costs	\$2,050,000
Indirect Costs	
(Regional Indirect Cost	
Rate 30.30% x \$2,050,000)	\$ 621,150
Estimated EPA Costs Eligible for Cost Recovery	\$2,671,150

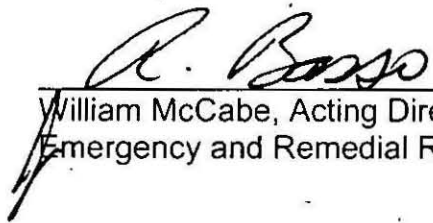
IX. RECOMMENDATION

This decision document represents a confirmation of verbal authorization granted by William McCabe, Acting Division Director, ERRD approving a project ceiling of \$250,000 and request for a ceiling increase of \$1,700,000 for the selected removal action at the Westwood Chemical Corporation Site, located at 146 Tower Drive, Middletown, Orange County, New York 10941, developed in accordance with CERCLA, and not inconsistent with the NCP. This decision is based on the Administrative Record for the Site. Conditions at the Site meet the NCP Section 300.415(b)(2) criteria for a removal action.

This Action Memorandum, if approved, will authorize a total project ceiling of \$1,950,000.

Please indicate your approval of the authorization of funding for the Westwood Chemical Corporation Site, as per the current Regional redelegation of authority, by signing below.

Approved: _____


William McCabe, Acting Director
Emergency and Remedial Response Division

Date: _____

4/15/05

Disapproved: _____

William McCabe, Acting Director
Emergency and Remedial Response Division

Date: _____

cc: (after approval is obtained)

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